FOR MYSORE STATE

Law (1954) Department.

MS SERIES.

G.O. NO. 169

Dated 8-7-1954

[Despatch Abstract.]

Legal Assistance – South Kanara district – OS No. 300 of 1953 on the file of the Court of the Second Additional Subordinate Judge, South Kanara – Bhatiappa (Sri) K, Sub-Inspector of Police – Defence – Engagement of a Junior by the Govt. Pleader, South Kanara – Sanctioned

C.O.P.—10-2-54—200X

From

SRI J. DEVASAHAYAM, B.A., I.P.,
INSPECTOR-GENERAL OF POLICE,
MADRAS-4.

To

THE SECRETARY TO THE
GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

R.C. No.....1432/Aud./53..., dated 26th March 1954.

ASSISTANT SECRETARY TO GOVERNMENT
27 MAR 1954
HOME DEPARTMENT

Sir,

Sub: Suits-Civil-O.S.No.300/53 on the file of the II Additional Subordinate Judge of South Kanara filed by Sri U.K.Chandrayya against Sri M.Mathiappa Sub-Inspector of Police now at Kapu Police Station-Defence to be done-Sanction of a Junior Counsel-Orders-Requested.

I request the Government kindly to sanction the appointment of a junior counsel to assist the Government Pleader, South Kanara in connection with the defence of the above suit.

2. In the above suit, the defence of the Sub-Inspector at above cost was sanctioned by the Government in G.O. , South Kanara requests permission to engage Sri S.R.Bhat, B.A.,B.L., Advocate, Mangalore, as his junior in the above suit on condition that the Government will not be liable to pay him the junior's fee, if the suit is decreed against the Government. The Collector of South Kanara has recommended the request of the Government Pleader. In this connection, I enclose a copy of letter R.Dis.2366/53, dated 27.2.54 from the Collector of South Kanara.

3. I therefore request the early orders of the Government sanctioning the employment of a junior counsel by the Government Pleader, South Kanara for the defence of the Sub-Inspector in the above case.

for Inspr.-Genl. of Police.

Cudm. 26.3.

Copy of Ref.No.1282/53, dated 24.2.54 from the Advocate and Government Pleader, South Kanara, to the Collector of South Kanara.

Spec: Suits-O.S.No.300/53 on the file of the II Additional Sub Judge, South Kanara-filed by Sri U.K.Chandrayya against Sri M.Mathiappa-Sub-Inspector of Police-Defence to be done cost-engagement of a junior counsel-certain-particulars-offered.

Ref: Your Ref.A3.2366/53, dated 17.2.54.

Rule 28(a) of the Rules under the Bar Councils Act has not been amended. It is correct to say that by law I am entitled to have a junior if the valuation of a suit is more than Rs. 5,000/-. However, if the valuation of a suit is upto Rs. 5,000/- a junior can be engaged and he is entitled to get a fee of 1/3 or the fee that is allowed to the senior. This is a suit for Rs.4,500/-. So the junior is entitled to get a fee. But the difficulty will arise if the suit is decreed and if the Government is asked to pay the fee for the junior counsel. But if the suit is dismissed with costs the junior counsel is entitled to get the fee from the plaintiff. There will not be any liability on the Government. So, under the circumstances stated above, I may be permitted to engage Sri S.R.Bhat, B.A.,B.L., Advocate, Mangalore, as my junior in the above suit on condition that the Government will not be liable to pay him any junior fee in the suit is decreed against the Government.

HOME. [illegible]

E No. 43304/Pol II/54

Law U.O.

30/3/54.

31/3

30-3-54

Home U.O 43304/Pol II/54

31-3-54.

ASSISTANT SECRETARY
2 APR 1954
5578
LAW DEPARTMENT, MADRAS

Law Department.

G.O.Msm No. 169 dated 8.7.1954

Legal Assistance - South Kanara district - O.S.No.300 of 1953 on the file of the Second Additional Subordinate Judge, South Kanara - Bhatiappa, Sri K. - Defence Engagement of a Junior by the Govt.Pleader, South Kanara - Sanctioned.

Read:

Letter from the I.G. of Police Rc.No.1032/AUD/53 dated 26th March 1954.

Order

Govt. sanction the engagement of Sri S.P.Bhat, M.A., LL.B., Advocate, as Junior to the Government Pleader, South Kanara, in connection with his work in O.S.No.300 of 1953 on the file of the Court of the Second Additional Subordinate Judge South Kanara, subject to the condition that the Government will not be liable to pay him the junior fee if the suit is decreed against the Govt.

To the I.G. of Police,
Copy to the G.P.SouthKanara.
" " Sri S.P.Bhat,M.A., LL.B. Advocate, thro G.P., S.K.
" " A.G.Madras thro' Finance.
" " Home Dept.

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Abstract

[illegible] district - [illegible] of 1953 on [illegible], [illegible] - [illegible], [illegible] - [illegible] -
[illegible] - [illegible] - [illegible] -
[illegible] - [illegible].

[illegible]nt
[illegible] [illegible]rly 1954.

-ii-
[illegible] [illegible] [illegible] [

20,002—8-5-53.

ORDER PAPER.

Law Department.

Subject. Legal assistance - South Kanara district - O.S.No.300 of 1953 on the file of the Second Addl.Subordinate Judge - Bhatiappa Sri K. - Sub-Inspector of Police - Defence - Engagement of a junior by the Government Pleader, South Kanara - Sanction of

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Recommendations of Circulating Officer.

The Government Pleader, South Kanara, may be permitted to engage Sri S.P.Bhat, M.A., LL.B., Advocate, as Junior to assist him in O.S.No.300 of 1953 on the file of the Court of the Second Addl.Subordinate Judge, South Kanara, subject to the condition that the Govt. will not be liable to pay him the junior fee if the suit is decreed against the Govt.

8.7.54

Orders of Ministers.

(1) M.(F & E) 8.7.54

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If orders passed in the Cabinet, Decision of Cabinet.

Law Dept.

Sub: Legal Assistance - South Kanara district - OS No. 300 of 1953 on the file of the Second Addl. Sub Judge, S. Kanara filed by Sri C. Ramachandraiya against Sri K. Bhatappa Sub-Inspector of Police - defence at State cost - Engagement of a junior by the Govt. Pleader, S. Kanara - Sanction of.

CM. 5538/54

Ref Letter from the D. I. of Police, Madras, RC No. 1032/Ans/53 Dated 26. 3. 54

Non pl cf

Please see the letter from the D. I. of Police on pl cf and the enclosures thereto. The D. I. has recommended the engagement of a junior to the Govt. Pleader, S. Kanara, in connection with the defence of Sri K. Bhatappa, Sub Inspector of Police in OS No. 300/53 on the file of the II Addl. Sub Judge, S. Kanara.

Pl cf 2 cfs

Particulars regarding the case have not been furnished by the D. I. of Police nor has a copy of the plaint been forwarded. However, the following points could be gathered from the D. I.'s letter and the copy of the letter of the Govt. Pleader S. Kanara.

Non pl cf

4 K. on pl 1-2 cfs

The suit has been filed by one Sri C. Ramachandraiya against Sri K. Bhatappa, S.I. of Police for a sum of Rs 5000/-. The defence of the S.I. at State cost, was sanctioned by the D. I. of Police apparently because the case arose out of acts done by the S.I. in the discharge

b on pl 1 cf

L on pl cf

of his official duties.

The Govt Pleader S. Kanara, has now requested that he may be permitted to engage Sri S. P. Bhat M.A; L-L B; as his junior to help him in the defence of the suit. He has stated that according to Rule 28-A of the Madras Bar Councils Rules, he is entitled to engage a junior if the valuation of the suit is Rs 5000/- or more and that in a suit where the valuation is more than Rs 10000/- he can engage a junior and that the junior is entitled to a fee of 1/3 of the fee allowed to the senior. He has further stated that this junior need not be paid by the Govt if the suit is decreed against the Govt. and that if the suit is dismissed with costs, the fee would be paid by the plaintiff. The Collector of S. Kanara and the S. P. of Police have recommended the sanction of the engagement of a junior to the Govt. Pleader.

Rule 28-A of the Madras Bar Councils Rules provides ~~for~~ that no advocate of fifteen years standing or more shall appear without a junior in any case in which the valuation is Rs 50000/- or more. The valuation of the suit in question being Rs 4 5000/-, the Govt Pleader is not entitled to have a junior under the above rule. The authority for the statement of the Govt Pleader, S. Kanara that if the valuation of a suit is more than Rs 10000/- a junior can be engaged ~~& that the junior is entitled~~

is presumably rule 33 of the Legal Practitioners Fees rules. That rule states:

p.30 Ed Bud Act

"In Courts subordinate to the High Court, where the amount or value of the claim in a suit or appeal exceeds Rs 10000/- an additional fee calculated at one-third the fee allowable under rules 31 and 32 above shall be payable to a junior practitioner engaged with a senior practitioner, provided that the junior was on record from at least the date of the settlement of issues in a suit or from the date fixed for the appearance of the respondent in an appeal"

It seems the above rule applies only to payment of fees to a junior. Where a junior has been engaged the appointment of a junior is governed by Rule 28-A of the Bar Council's Rules. In the present case, ~~[illegible]~~ it does not seem that the advocate is entitled to a junior

X

However, in view of the undertaking given by the Govt. Pleader that the Govt. will not be liable to pay the junior if the suit is decreed against the Govt, the request of the G.P. may perhaps be agreed to. The Collector of Sikasara and the S.P. of Police have recommended that the G.P. may be permitted to engage a junior.

Norfolk

A

Copy 2 of 5 of

4/

The file may be sent to Home Dept for remarks on the Govt Pleader's request for sanctioning the engagement of a Junior. Home may be requested to say whether in the circumstances of the case, the G.P. South Kanara may be permitted to engage a Junior

PAS 18/5/54

DB 18/5/54

Law no 5578/54

71011

Home

HOME DEPARTMENT.

This file has been sent to this department, for remarks on the question of sanctioning a Junior to the Govt. Pleader, South Kanara, in connection with the defence of Sri K. Bhatiappa, S.I. of Police in O.S.No. 300/53 on the file of the II Addl. Sub Judge, S. Kanara.

The G.P. has requested that he may be permitted to engage Sri S.P. Bhatt, M.A.LL.B., Advocate, Mangalore, as his junior to defend S.I. Sri K. Bhatiappa, against whom a civil suit has been filed by one Sri C. Ramachandrayya for a sum of Rs.4,500/-. The defence of the S.I. was sanctioned by the I.G. of Police. The G.P. has cited Rule 28-A of the Madras Bar Councils Act, wherein it is stated that "no advocate of Fifteen years standing or more shall appear without a Junior in any case in which

the valuation is Rs.5000/- or more". In this case, the suit value is only for Rs.4,500/- and hence the provisions of Rule 28-A of the Madras Bar Councils Act will not apply . The G.P. has also stated that if the valuation of a suit is more than Rs.1000/- a junior can be engaged and he is entitled to get a fee of 1/3 of the fee that is allowed to the Senior. The rule referred to is rule 33 of the Legal Practitioners Fees Rules. As pointed out by Law at 'X' on p.3 ante, the appointment of a Junior is governed by rule 28-A of the Bard Councils Rules. Since the value of the suit in this case is only Rs.4,500/-, the G.P. does not seem to be entitled to have a Junior to assist him, However, in view of the definite assurance given by him, viz, that the Government will not be liable to pay him the Junior fee if the suit is decreed against the Govt. (please see N on p.1 c.f.) ~~Law Dept. propose to sanction the request of the G.P.~~ The Collector of S. Kanara and the I.G. of Police have recommended that the G.P. may be permitted to engage a Junior.

In view of the above reasons, Law Dept. propose to agree to the request of the G.P. at 'A' on p.3 ante. ~~For orders, whether~~ This dept. may agree with Law, and return the case to that dept. ~~That Dept. may be requested to send this file to Fin Dept also.~~ Law will no doubt let Fin. also see the case.

6/6/54. 6.6.54

sl6

Law

Law Dept.

~~Finance~~ The file may be sent to Finance as suggested by Hon'ble at A above.

PAS 7/6/54

7.6.54 Finance

DEPUTY SECRETARY TO GOVERNMENT 8 JUN 1954 FINANCE DEPARTMENT

6238 E-1

Dno' Court I

6/6/54.

6/6/54

Home 7/041/P/11/M7

Law 5578/54 5/6/54.

7.6.54

ASSISTANT SECRETARY 7 JUN 1954 9079 LAW DEPARTMENT, MADRAS

Legal Dept.

6/

Finance (E.I) Department.

The file relates to the question of sanctioning a Junior to the Government Pleader, South Kanara, in connection with the defence of Sri K. Bhatiappa, Sub-Inspector of Police against whom a Civil suit has been filed by one Sri C. Ramachandrayya for a sum of Rs. 4,500/- in O.S. No. 300/53 on the file of the II Additional Sub-Judge, South Kanara. The defence of the S.I. was sanctioned by the I.G. of Police.

2/ The G.P. requests that he may be permitted to engage a Junior to ~~defer~~ defend the suit with reference to Rule 28-A of the Madras Bar Councils Act, which states that "no advocate of fifteen years standing or more shall appear without a Junior in any case in which the valuation is Rs. 5,000/- or more". Since the value of the suit in this case is only Rs. 4,500/- the G.P. is not entitled to have a Junior.

3/ The G.P. has also stated that if the valuation of a suit is more than Rs. 1,000/- he is entitled to have a Junior and the Junior is eligible to get a fee of 1/3 of the fee that is allowed to the Senior and that in the present case the Govt. will not be liable to pay him the Junior fee, if the suit is decreed against the Government. Law have poihted out that the rule referred to by the G.P. is not applicable in this case and that the appointment of a Junior is governed only by rule 28-A of the Bar Councils Rules. However in view of the definite assurance given by the G.P. that the Govt. will not be liable to pay him Junior fee, if the suit is decreed against the Govt. Law propose to agree to the proposal. Home have agreed with Law. Finance may also agree.

2/2/54

Law

Legal Asst

ASSISTANT SECRETARY 5 JUL 1954 10573 LAW DEPARTMENT, MADRAS

Law Department.

Note for Circulation.

The proposal in this file relates to the sanctioning of the engagement of a Junior to the Govt.Pleader, South Kanara, in connection with the defence of Sri K.Bhatiappa, Sub-Inspector of Police, in O.S.No.300 of 1953 on the file of the Court of the Second Additional Subordinate Judge, South Kanara. The suit has been filed by Sri C.Ramachandrayya against the S.I. for a sum of Rs.4500/-. The defence of the S.I. was sanctioned by the I.G. of Police.

The Govt.Pleader, South Kanara, has now requested that he may be permitted to engage Sri S.P.Bhat, M.A.,LL.B., Advocate, as a Junior for assisting him in connection with the above mentioned suit, on the condition that the Govt. will not be liable to pay him the junior fee if the suit is decreed against the Govt.

Rule 28-A of the Bar Councils Rules which governs the engagement of a Junior provides that no Advocate of fifteen years' standing or more shall appear without a Junior in any case in which the valuation is Rs.5000/- or more. Under the provisions of the above rule, the Govt.Pleader's request is not permissible, since the valuation of the suit is only Rs.4500/-. However, in view of the definite undertaking given by the Govt.Pleader that the Govt. will not be liable to pay him the Junior fee if the suit is decreed against the Govt. it is proposed to permit him to engage a junior as requested for by him. Home and Finance have also agreed with the proposal.

A draft order is placed below for approval.

5578/54

For orders whether it may issue.

PAS
7/7/54
SV
8.7.54

The draft may issue
8-7-54

M.(F+E) Lakshmanaram
8.7.54

P 3 cf [Issued as G.O.Ms.No. 169, Law, dated 8-7-1954]